

**REMARKS**

Claims 1-2, 4-5, and 9 are pending in the present application and are rejected. Claim 1 is herein amended to include limitations from previously pending claim 3, and to no longer include limitations from currently pending claim 2. No new matter has been entered.

**Claim Rejections - 35 U.S.C. §112**

Claims 1-2, 4-5 and 9 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite.

The Examiner notes that claim 1 recites the limitation “a polymeric material” in line 5. The Examiner now notes that there is insufficient antecedent basis for this limitation in the claim. The Examiner suggests amending the claim to read “the aqueous polymeric material” if appropriate. Applicants agree with the Examiner, and herein make the suggested change.

The Examiner notes that claim 1 recites the limitation “the polymeric material” in line 7. The Examiner asserts that there is no exact antecedent basis for this limitation in the claim. The Examiner suggests amending the claim to read “the aqueous polymeric material”. Applicants agree with the Examiner, and include this change herein.

Claim 2 is rejected as incomplete. Applicants inadvertently deleted a portion of the text of the claim in the response accompanying the recent RCE. Applicants herein replace the inadvertently deleted text.

**Claim Rejections - 35 U.S.C. § 103**

Claims 1-2, 4-5 and 9 are rejected under 35 U.S.C. §103(a) as being unpatentable over Yuasa et al. 5,250,369 in view of Magnusson et al. 4,232,100.

Examiner again points to Example 1 of Yuasa et al. as showing the use of an aqueous solution of poly(vinyl alcohol) (the binding agent) mixed into the hydrogen absorbing alloy powder to form paste; and a foamed nickel porous matrix (the current collector) which is filled with the prepared paste and pressed. The Examiner also again points to Example 7 as further showing the hydrogen absorbing alloy negative electrode is coated with polyethylene (the coating polymeric material), which coating layer is different from the polymeric material in the binding agent.

The Examiner appears to finally agree that Yuasa et al. is deficient in failing to teach an aqueous polymer coating. The Examiner notes an aqueous polymer coating in Magnusson et al.

The Examiner asserts that it would have been obvious to apply the aqueous polymeric material coating layer of Magnusson et al. on the electrode of Yuasa et al because Magnusson et al. teaches that such specific polymeric layer “prevents dust formation on the electrode surface.”

Applicants note that to establish a *prima facie* case of obviousness, three basic criteria must be met. First, the prior art reference (or references when combined) must teach or suggest all the claim limitations. Second, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Finally, there must be a reasonable expectation of success. (MPEP §2142). The teaching or suggestion to make the claimed

combination and the reasonable expectation of success must both be found in the prior art, and not based on Applicant's disclosure.

Applicants respectfully disagree with the rejection because the Examiner presents no valid teaching or suggestion to combine the cited references.

It appears that the Examiner has failed to properly characterize the newly cited reference. Applicants specifically note that Magnusson et al. does not disclose preventing dust formation *on* the lead plate surface. Rather, the coating of Magnusson et al. is intended to prevent dust formation *from* the lead plate. Applicants note that lead dust is extremely hazardous to humans, and that prevention of lead dust is a great concern to those in the manufacturing and handling of lead plates. Applicants note that lead dust prevention and mitigation is widespread in industries that use lead.

The Examiner asserts that one would have combined the coating of Magnusson et al. with the electrode of Yuasa et al. to reach the present invention. However, Applicants submit that there is no similar concern when manufacturing and handling non-lead electrodes such as those in Yuasa et al. Moreover, even if one were concerned with the metal of the electrode of Yuasa et al. creating a dust, Applicants note that the electrode of Yuasa et al. already contains a binder for the powder, and is already covered with an FEP coating. Because of this coating, even if dust from the electrode material were initially a concern, the FEP coating of Yuasa et al. would mitigate it. Therefore, one skilled in the art would not have needed nor been motivated to look to Magnusson et al. to solve a problem that does not exist in Yuasa et al., and therefore one would not have combined the coating of Magnusson et al. with the battery electrode of Yuasa et al.

Furthermore, because the active material of Magnusson et al. is completely different from that of the present invention and there is no teaching or suggestion in either cited reference that the coating material of Magnusson et al. is desirable or would function with the underlying active material of the present invention.

In view of the aforementioned amendments and accompanying remarks, Applicants submit that the claims, as herein amended, are in condition for allowance. Applicants request such action at an early date.

If the Examiner believes that this application is not now in condition for allowance, the Examiner is requested to contact Applicants' undersigned attorney to arrange for an interview to expedite the disposition of this case.

If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

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